

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-003924

03/16/2004

HON. FRANK T. GALATI

CLERK OF THE COURT
C. Danos
Deputy

FILED: 03/18/2004

RENAISSANCE AIRCRAFT L L C

E JEFFREY WALSH

v.

P DOUGLAS COMBS, et al.

P DOUGLAS COMBS
LAURIE A EDER
15815 E MELROSE STREET
GILBERT AZ 85296

REX A CHRISTENSEN
S CARY FORRESTER
JOHN M MCKINDLES
ERIC ROWE ESQ
GREENBERG TRAUIG
800 CONNECTICUT AVE NW
WASHINGTON DC 20006
ALTERNATIVE DISPUTE
RESOLUTION - CCC

RULING

8:49 a.m. This is the time set for oral argument. Plaintiff is represented by counsel, Daniel W. Glasser, appearing for E. Jeffrey Walsh. Defendant Combs is present on his own behalf. Defendant Eder is present on her own behalf. Defendants Jewell, Warner and Price are represented by counsel, Rex A. Christensen.

Court reporter, Laura Ashbrook, is present.

The matters pending before the court are identified to be:

- (1) Cross-defendants Prices', Warners' and Jewells' motion for clarification;

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-003924

03/16/2004

- (2) Cross-defendants Prices', Warners' and Jewells' motion to dismiss cross claims against them;
- (3) Defendants Combs' and Eder's second motion to compel production and depositions;
- (4) Defendants Combs' and Eder's second motion for leave to file an amended answer, counterclaims and cross claims.

Argument is presented.

Re: cross-defendants' motion for clarification,

LET THE RECORD REFLECT that the minute entry filed August 18, 2003 is not applicable to these crossdefendants and was not intended to apply to cross-defendants and cross-claims.

* * *

As to defendants Jewells, Prices and Warners' motion to dismiss crossclaims against Jewell, Price and Warner,

The court finds that the proceedings in the United States Bankruptcy Court and the automatic stay issued there mandate that litigation of these cross-claims be stayed.

IT IS SO ORDERED.

* * *

IT IS ORDERED that defendants Combs' and Eder's second motion to compel production and depositions is deemed submitted and taken under advisement.

* * *

LET THE RECORD REFLECT defendants Combs and Eder withdraw their second motion for leave to amend the answer, counter-claims and cross-claims.

* * *

The court also has before it plaintiff's proposed form of judgment and plaintiff's proposed form of order approving settlement agreement between plaintiff and defendant Ollerton. The motions have been fully briefed and although the parties did not request oral

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-003924

03/16/2004

argument and these matters are not calendared for hearing today the parties advise the court they are prepared to proceed and brief argument is presented.

IT IS ORDERED that these matters are deemed submitted and taken under advisement.

* * *

Following discussion,

IT IS ORDERED referring this matter to the Court's Alternative Dispute Resolution Office for the appointment of a Judge *Pro Tempore* to conduct a settlement conference between plaintiff Renaissance Aircraft and defendants Jewell, Price and Warner. Counsel and/or the parties are instructed that ADR will not set the settlement conference and therefore they should not contact the office of ADR. Counsel and/or the parties will be notified by ADR by minute entry upon the appointment of a Judge *Pro Tempore* and at that time should contact the appointed Judge *Pro Tempore* to arrange the time and location for the settlement conference.

IT IS FURTHER ORDERED requesting ADR appoint an experienced commercial litigator to serve as the Judge *Pro Tempore* due to the complexity of the bankruptcy issues involved.

9:27 a.m. Matter concludes.

LATER:

Defendants Combs' and Eder's second motion to compel production and deposition was taken under advisement.

As was stated during today's hearing, plaintiff has no objection to defendants' requested deposition. Defendants should contact Mr. Glasser in order to schedule the deposition(s).

Further, defendants are directed to file a more complete Rule 26.1 disclosure statement and to submit a revised request to produce documents which does not exceed the presumptive limits without first attempting to secure a stipulation from plaintiffs.

In addition, the court suggested that the parties attempt to come to an agreement concerning the outstanding issues in this case. If court assistance would be helpful, either party may ask for a Rule 16 conference for the purpose of narrowing issues.

Also before the court is plaintiff's motion for Rule 11 sanctions against Combs and Eder regarding their objections to plaintiff's voluntary dismissal of claims against defendant Ollerton.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-003924

03/16/2004

The court has read the objections filed by defendants. The objections are not well-grounded in fact or law and there is no discernable, legitimate reason for entering these objections. As such, Rule 11, Az.R.Civ.Pro., has been violated. In addition, the objections have unreasonably expanded and delayed this litigation. A.R.S. § 12-349(A)(3).

Accordingly, IT IS ORDERED granting plaintiff's motion for imposition of sanctions. The court assesses against defendants the full amount of attorney's fees and expenses incurred by plaintiff in responding to defendants' objections to the notice of dismissal after plaintiff had notified defendants by letter that their objections were not well-grounded. Plaintiff shall submit a China Doll affidavit and proposed form of order.

* * *

IT IS ORDERED overruling defendants Combs' and Eder's objection to the form of order approving settlement agreement between plaintiff and Ollerton (considering errata).

IT IS FURTHER ORDERED approving and settling formal written order approving settlement agreement between plaintiff and defendant Ollerton signed by the court March 16, 2004 and filed (entered) with the clerk March 16, 2004.

* * *

IT IS ORDERED entering judgment in favor of the plaintiff and against defendant P. Douglas Combs, all in accordance with the formal written judgment against defendant P. Douglas Combs signed by the court March 16, 2004 and filed (entered) with the clerk March 16, 2004.